1: Evans-Pritchard E-5 (1931, 1936) 1940
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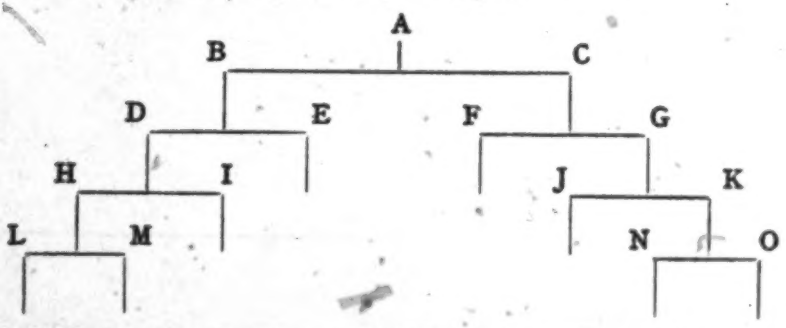
structure, and the letters in the diagram represent persons from whom the clan and its segments trace their descent and from whom they often take their names. There must be at least twenty such clans in Nuerland, without taking into account numerous small lineages of Dinka origin.



A lineage in the sense in which we generally employ this word is a group of living agnates, descended from the founder of that particular line. Logically it also includes dead persons descended from the founder—and we sometimes use the word to include them also—but these dead persons are only significant in that their genealogical position explains the relationships between the living. It is clear from the context whether the word is used in a more or less inclusive sense.

Clans and lineages have names, possess various ritual symbols, and observe certain reciprocal ceremonial relations. They have spear-names which are shouted out at ceremonies, honorific titles by which people are sometimes addressed, totemic and other mystical affiliations, and ceremonial status towards one another.

Agnatic kinship between lineages is called *buth*. *Buth* is always an agnatic relationship between groups of persons, and only between persons in virtue of their membership of groups. *Buth* agnation is to be distinguished from kinship in the sense of relationship between persons, e.g. between a man and his father's brother and mother's brother. Cognation in this sense the Nuer call *mar*. Any person to whom a man can trace any genealogical link, whether through males or females, is *mar* to him. A man's *mar* are consequently all his father's kin and all his mother's kin, and we call this cognatic category his kindred.

1: Evans-Pritchard E-5 (1931, 1936) 1940
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611 612 In normal usage the word refers to close relatives only. Therefore, as *mar* includes close agnates, the word *buth* is used only in reference to distant agnates, between whom and the speaker there is lineage cleavage. There is *buth* relationship between lineages of the same clan and also between related clans which have the same ancestor but do not compose an exogamous unit. A Dinka can be given *buth* relationship to a Nuer lineage by being adopted into a collateral lineage. We thus formally distinguish between the lineage system, which is a system of agnatic groups, and the kinship system, which is a system of categories of relationship to any individual; and we speak of these relationships as a man's paternal kin and his maternal kin, and both together as his kindred.

613 619 Political and lineage groups are not identical, but they have a certain correspondence and often bear the same name, for a tribal area and its divisions are often called after the clans and lineages which are supposed to have first occupied them. This makes their inter-relation a very difficult problem to investigate and has led to some confusion in writings on the Nuer. Thus Gaawar is the name of a tribal area, of the tribesmen who inhabit it, and of the members of a clan which have in that area a socially dominant status. Likewise Gaajok and Gaajak are names of territories, tribes, and lineages. To clarify description clan and lineage names are therefore printed in small capitals. Hence, when we say that a man is a Gaawar we mean that he is a Gaawar tribesman, a man who resides in Gaawar country, whereas when we say that he is a GAAWAR we mean that he is a member of the GAAWAR clan, a descendant in the male line from War, the founder of the dominant clan in Gaawar country.

II

613 614 Three trees of clan descent are presented in the following section in a form conventional to us, and which would also commend itself to Nuer, who sometimes speak of a lineage as *kar*, a branch, as illustrations of the way in which lineages split up, each being a branch of a larger one. The JINACA are the dominant clan in the Lou and Rengyan tribes, the GATGANKIIR are the dominant clan in the Jikany tribes, and the (GAA)THIANG

1: Evans-Pritchard E-5 (1931, 1936) 1940
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and as there must be such a link if they live in the same community, owing to the rules of exogamy, it follows that people who live together are all *gaat nyiet* to one another. However, it is in relation to the dominant lineage of a community that the concept is mainly employed and is politically important. When people are not members of this lineage it is stressed that they are *gaat nyiet* to it. Nuer of other clans can never more closely identify themselves with the dominant lineage, because, for ritual reasons, they must remain autonomous units, but politically they accrete themselves to it through this kinship category. Moreover, outside ritual situations, being *gaat nyiet* to a dominant lineage gives people complete equality with it, and their accretion to it is often expressed in terms of lineage structure, so that a man will often give his ascent to the woman of the dominant lineage who bore one of his ancestors, and thus graft himself, through her, on to their tree of descent; though this is more usually done by Dinka than by Nuer. It is, however, the common practice for children of strangers who have been brought up at the home of their maternal kinsmen, who are aristocrats, to regard themselves as members of their mother's lineage, except in ceremonial situations, and to consider its members, rather than their father's lineage, as their true kinsmen.

Dinka who have not been adopted commonly trace their ascent to a female Nuer forebear and through her they graft themselves into a Nuer lineage and are accepted as members of it in ordinary social relations. Thus a Dinka often gives his ascent to the dominant lineage of his community through a woman, and sometimes through two or three female links, and though this is generally evident from female prefixes it cannot always be known. These Dinka individuals incorporate themselves into the structure of a Nuer lineage through their mothers, since they have no lineage structure of their own. This is different from the stressing of a female link (*gaat nyiet*) which unites a group of Nuer strangers or of Dinka to the dominant lineage of their tribal section and also from matrilineal modes of reckoning descent due to matrilocal conditions of residence, which may be temporary.

Owing to exogamous rules lineages are thus linked by

2:Evans-Pritchard E-5 (1931, 1936) 1951
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621 the ambition of every man, of the dominant clan especially, to become a 'bull' and the centre of a cluster of kin, and Nuer say that it is for this reason among others that families often break up and cousins and brothers part, each to seek to gather his own community around him.

621 613 611 I suggest that it is the clear, consistent, and deeply rooted lineage structure of the Nuer which permits persons and families to move about and attach themselves so freely, for shorter or longer periods, to whatever community they choose by whatever cognatic or affinal tie they find it convenient to emphasize; and that it is on account of the firm values of the structure that this flux does not cause confusion or bring about social disintegration. It would seem it may be partly just because the agnatic principle is unchallenged in Nuer society that the tracing of descent through women is so prominent and matrilocality so prevalent. However much the actual configurations of kinship clusters may vary and change, the lineage structure is invariable and stable.

2:Evan's-Pritchard E-5 (1931, 1936) 1951
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practises as a magician or diviner and thereby acquires further cattle; and if she is rich she may marry several wives. She is their legal husband and can demand damages if they have relations with men without her consent. She is also the pater of their children, and on the marriages of their daughters she receives 'the cattle of the father', and her brothers and sisters receive the other cattle which go to the father's side in the distribution of bridewealth. Her children are called after her, as though she were a man, and I was told that they address her as 'father'. She administers her home and herd as a man would do, being treated by her wives and children with the deference they would show to a male husband and father.

A very common feature of Nuer social life is a union I have called ghost-marriage. If a man dies without legal male heirs, a kinsman of his or the succeeding generation—brother, natural son, paternal nephew, or, where a man has, in the absence of lineal heirs, inherited cattle from his mother's brother, sister's son—ought to take a wife to his name.

Except in the case of a barren woman and in the special circumstances and manner mentioned on page 16, where it might be said that in a sense she does so, a daughter does not carry on the lineage of her father. She becomes one of her husband's people and her children belong to his lineage. Hence Nuer say: *'Nyal, mo ram me gwagh'*, 'A daughter, that is an unrelated person.' As the Roman lawyers put it, she is *finis familiae*, the terminus of the family. But a man's name must continue in his lineage, and Nuer consider it very wrong if a man who dies without male heirs is not married a wife by a kinsman who will raise up seed to him by her so that he will be remembered in his sons. This is a most elementary obligation of kinship, and if it is neglected the dead man's ghost may haunt his kin.

In speaking of these ghost-marriages Nuer say, for example, that *'ce deman kwen ciek'*, 'he-his brother-married-wife' ('he married his brother a wife'). This is a clumsy and ambiguous expression in English, so I shall speak of a man marrying a wife to the name of a dead kinsman, it being understood that it is not he, but the dead man, who is the legal husband. Nuer also speak of a man 'kindling the fire' of his dead kinsman, a euphemism for raising up seed to him.

This is a vicarious marriage, the vicarious husband acting as

2:Evans-Pritchard E-5 (1931, 1936) 1951
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583 called, is likewise paid to the genitor of daughters born in widow-concubinage, and if he acted also as foster-father to the bride and her brothers and sisters—'cut meat for them', as Nuer say—he may receive another two to four head of cattle of her bridewealth for having fostered the family. Also, when the daughter of his natural daughter is married, his legal son can claim a beast of the bridewealth. As I have explained, an adulterer may receive a cow on the marriage of his natural daughter, though I doubt if it is often paid.

There is no 'cow of the begetting' when the daughter of an unmarried concubine is married because the genitor by payment of a fee has made himself the pater also. 'The cattle of the father' go to him. As he is not the husband of the mother, 'the cattle of the mother', or some of them, may go to different kraals, because the bride's mother's sons have rights in them, and they may have been begotten and legitimatized by other men. For all these different cases I have stated only the principles of distribution of bridewealth. As I have explained earlier, actual distribution may be more complicated and depends on variable conditions. Among the Nuer these matters are discussed always in the idiom of cattle.

When a woman is married—that is to say, in all the cases we have considered except that of unmarried concubinage—division of the bridewealth of her daughters is determined by payment of bridewealth for herself. The person in whose name she was married with cattle is the pater of her children whether he begat them or not, was dead or alive at the time of her marriage and
[611] the birth of her children, or is a man or a woman. Hence it follows that agnatic descent is, by a kind of paradox, traced through the mother, for the rule is that in virtue of payment of bridewealth all who are born of her womb are children of her husband and therefore paternal kin, by whomsoever they may have been begotten. They may count as children of a man their mother has never even seen. They may have been begotten by several fathers, but they all
602 have the same pater. It is the fertility of the womb which a lineage
613 receives by payment of bridewealth. All children born of that
581 womb belong to the lineage; they are all agnates. This is a profoundly significant fact in Nuer society. It affects, among other things, the position of the family group in the kinship and lineage systems. The custom by which men in ghost-marriage and leviratic marriage raise up seed to their kinsmen subordinates the

2:Evans-Pritchard E-5 (1931, 1936) 1951
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of the byre as the men's dormitory and club, and the shrine is placed at its entrance. Small grass beehive huts take the place of the wattle-and-daub huts of the villages as the dwellings of the womenfolk of the home.

The polygamous family is a unit, the *gol* of the husband of the several wives. '*Jigoala*', 'the people of my hearth', are my family in this inclusive sense. But the children of each wife also belong exclusively to her *dwil* (or *ut*), hut, and to her *mac*, cooking-fire, so that the polygamous family is divided into a number of separate domestic groups within the larger whole. The huts of the different wives are the centres of these elementary families which have a common husband and father. Outside her hut each wife has her *buor*, a mud windscreen, against which she makes her cooking-fire, and near to it is her *thung*, a plastered hole in the ground for pounding millet (she has another fire-place and another pounding-hole inside her hut for use on rainy days). This mud screen, the top of which is fashioned into three humps, is the sign of a married woman's status as the mistress of her home and the mother of children, just as the hearth in the byre is the sign of a man's status as the father of a family and the master of household and herd; and it also has ritual associations, for sacrifices are made near it. It is the centre of a married woman's life. Here her friends and neighbours gossip with her when she is working or in the evening when work is done.

As boys grow up they attach themselves more and more to the byre, but each remains, both in sentiment and by social alinement, also a member of his mother's hut. Hence one may distinguish between full brothers and paternal half-brothers by saying that the first are brothers *kwi dwiel*, on the side of the hut (as we say, on the distaff side), while the second are brothers *kwi luak*, on the side of the byre (as we say, on the spear-side); and this distinction is a fundamental one in Nuer society, for it runs not only through the family but through the kin also, and is moreover the paradigm of the lineage structure.

With the huts go the gardens, with the byre go the cattle and the kraal. Each wife has her own garden and granaries, and with her millet she makes porridge for herself and her daughters, small sons, and guests, and also porridge and beer for the men and boys in the byre, the male members of the whole household, only some of whom would be her own sons, and any male neighbours and

2:Evans-Pritchard E-5 (1931, 1936) 1951
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to that structure, for both act to pull apart the children of different wives of the same husband.

I shall return to the distinction between full and half-brothers when discussing the Nuer kinship system. We will then see how categories of relationship fall into two broad classes: the 'bulls', the paternal kin and members of the lineage, and those traced in one way or another through women, the *gaatnyiet*, the children of girls. Half-brothers are 'bulls', but full brothers, who form the closest of all relationships except for that of twins,* are not only paternal kin but also maternal kin. A full brother 'is like your mother and your father'.

III

Complicated patterns of family relationships arise from the different forms of domestic union I described in the last chapter, and a rather lengthy discussion of them cannot be avoided.

Often there is opposition between the interests of the legal family and the interests of these other bio-domestic groups; that is to say, between the interests of the group united by marriage and descent and the interests of the procreative group united by common residence and life. When a child is a member of both groups it sometimes happens that the privileges he derives from membership of the one clash with his feelings towards the people of the other. The extent to which this opposition affects the lives of the persons concerned depends on conditions which vary in each case. It is impossible in advance to know how any particular person will be affected, and one can only guess how he will act when one knows the characters as well as the status of the people involved. But the normative principles that govern the behaviour of parents and children may be explained. In any particular case their actions will tend to follow the lines here laid down. Only the position of sons is considered. Daughters will not remain with either their genitor or the kinsmen of their pater, but will become members of their husbands' households. Control over their persons is therefore not disputed, and division of their bridewealth is so well defined by custom that it is a matter of minor importance where they are brought up.

* Twins have a peculiar social position, being treated as one person, and are the object of special observances which I have described in detail in the *Uganda Journal* (1936).

583 of a daughter for a wife. Payment of bridewealth
431 is a particular, and very striking, example of the principle of equivalence. A parallel example is the payment of cattle in compensation for homicide,[2] which among the Nuer is 40 head of cattle,
682 the same number as is paid for a bride. These
431 bloodwealth cattle are divided among the kinsmen of the dead man on the same plan of distribution
583 as that obtaining in the distribution of bridewealth, though about half are reserved for marrying a wife to the name of the dead man to bear him a son. Just as in bridewealth the principle is the replacement of a daughter by a wife, of a woman by a woman, so in bloodwealth the principle is the replacement of a son by a wife who will bear a son in his place, of a man by a man. It is worthy of note that the rate of bloodwealth has fallen in recent times to about the same level as the rate of bridewealth.[3] Nuer are aware of the equivalence of bridewealth and bloodwealth, for I have heard them complain that the government was attempting to fix bloodwealth without fixing bridewealth at the same rate, whereas what the one is the other should be.

583 To see the Nuer custom of bridewealth in its
431 structural perspective we must therefore think in terms of lineages. Children are attached by payment of bridewealth to the lineage of their father,
611 the attachment of the sons being of chief importance, though daughters may also be structurally significant in the lineage system. Children born in the union of marriage are "children of the cattle" and therefore of the man in whose name they were paid and they become joints in his branch of descent. The man in whose name the cattle were paid is always their *pater*, the sociological or lineage father, of the children, whether he is their *genitor* or not. If he dies, or is already dead before his marriage, the widow should be taken by one of her husbands and the fathers of his sons, that is to say by one of his brothers (or sons). But even

[2] This point is very clearly made by Prof. A. R. Radcliffe-Brown in Man, 1929 (96).

[3] Approximately 10 beasts are divided among the extra-family kinsmen and the rest, including the beasts due to the family of the dead man, are with contributions of cattle from his paternal and maternal kinsmen used to marry him a wife.

587 But even
583 should a woman whose husband has died decline
431 to cohabit with one of his paternal kin and prefer
611 to live as a concubine with some man unrelated to her dead husband any children she may bear are his children. Every child must have a *pater* or, which is saying the same thing among the Nuer, belong to a lineage, and if an unmarried woman has a child it is either paternalized by subsequent payment of bridewealth or by payment of a paternalization fee. If the *genitor*, which is unlikely, refuses to pay either bridewealth or fee, the man who later marries her with cattle becomes the *pater*. If she is not married then a man who takes her as a concubine pays the fee and becomes the *pater*.

[p. 188a]

8:Howell E, G-5 (1942-1944)1954
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587 rarer cases with a half-brother or more distant kinsman. Sometimes a widow lives with her husband's son (by another wife), but this is usually only in the case of an old man who dies leaving a young widow. Normally, if a man dies young, his children will be too young to inherit his widow. If a man dies old, his wives will usually be old too and will live with their own offspring, not as wife, but as 'mother of the household'. In very rare cases a widow is taken by her husband's sister's son.

According to customary law a widow is expected to live with one of her late husband's brothers. Among the Nuer brothers must marry in strict order of seniority, and the cattle held by them as a family are used in that order. Therefore if a married man dies leaving an unmarried brother, the latter will expect to take over his widow. Legally, he is entitled to do so, and if she refuses he can call for a dissolution of the marriage and return of the bridewealth cattle. The application of this law varies according to circumstances, and also according to the conventions held by different Nuer tribes, but it is rarely employed. If the widow is determined to live with someone else, and particularly if she declares her determination from the beginning, that is at the mourning ceremony of her husband, she is usually allowed to have her way. Moreover, if she has borne two or more children, she is considered to have fulfilled her procreative obligations, and it is less likely that there will be any objection to her taking a stranger as her lover. A widow, according to the circumstances, may elect:

(i) to live with her late husband's brother or kinsman;

(ii) to take a lover who is not a relative from her late husband's village community. In this case her husband's group is not deprived of her assistance in communal economic activities, and they are able to watch over the upbringing and education of her children.

(iii) to return to her own family and live among them, taking a lover or lovers from some stranger lineage.

[586] (iv) to go off to some other vicinity and there live with a lover. If she did so without the agreement of her late husband's family, a divorce could be demanded, unless she had sufficient children to make it unlikely that it would be in the interests of her husband's kinsmen to demand it.

• 611 587 In all the circumstances described above, her children, whereoever born and by whomsoever begotten, are legally the children of her late husband. This is the hard and fast rule. Only the circumstances set forth in (i) above can be described as the levirate. The other forms of union differ both from 'ghost-marriage' and the levirate. Such unions have been termed 'widow-concubinage' by Professor Evans-Pritchard.

8:Howell E, G-5 (1942-1944)1954
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'Widow-Concubines'

The main points are as follows:

(i) The man who performs the duties of husband to the widow is in no sense the legal father of her children, nor is he heir to the legal husband.

(ii) He cannot compel her to live with him or claim compensation if she commits adultery. The compensation for adultery would concern her late husband as represented by his living brothers or legal heirs.

(iii) He cannot divorce her or demand back her bridewealth for there is no legal marriage between him and the widow, only between the widow and her late husband.

(iv) He is not even the legal representative of the dead man and therefore, unlike the levirate or 'ghost-marriage', the characteristics of the simple legal family are not contained in the structure of this union.

The man's position is therefore, in theory, a precarious one. In fact, most of these unions are arranged with the agreement of the dead man's legal representatives and thereby receive social recognition not only from the world at large, but also from the dead man's family.[1] If no such agreement exists the control over the children and the widow may be a source of legal dispute. Such disputes are not uncommon.

Unmarried Concubines

All these forms of domestic and procreative union have one principal common factor: the children of the woman, whether she be wife, 'ghost-wife', widow or widow-concubine, belong to the man on whose behalf the bridewealth cattle were transferred to her family, and they trace their descent through his name to his more remote ancestors. There are, however, forms of union which are in no sense legal because no cattle have been paid as bridewealth for the woman. Children born of such unions will be attached in name to their mother's lineage unless their father chooses to legalize their status and attach them to his lineage by payment of a special fee, or unless the mother is legally married later to some other man who assumes the status of legal father to the children.

The status of women among Nilotic peoples is high. In the question of marriage they usually have a fairly free choice, though there are undoubtedly many occasions when father or brothers will use persistent persuasion or even force to compel a girl to marry a man she

[1] A widow living in this form of union with a man is known as *ciek me lăk* and her children as *gaat cuna*.

8:Howell E, G-5 (1942-1944)1954
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her husband is before the *muot* and before he has met their claims for bridewealth, in which case strictly speaking the man is not her husband at all.

7. THE LEGITIMACY OF CHILDREN

Establishment of Legitimacy by Legal Marriage

Legal marriage is performed by the transfer of a number of cattle acceptable to the woman's family, and usually also by the performance of ceremonies and ritual observance. Children born of such unions are legally the children of the man who transferred the cattle or on whose behalf the cattle were transferred, and his rights in those children, and the rights which descend to his heirs, are valid and inalienable unless the cattle are returned. No conflict can theoretically arise, for a woman cannot have more than one legal husband at one time. Nor can any one of her children have more than one legal father or *pater*, though sometimes different children of the same mother may have different legal fathers. From the legal aspect, legitimacy brings to male children status and privilege as members of the legal father's lineage and the rights of inheritance from that father. They acquire rights in the cattle of the kinship group—rights which are determined by their position in the kinship structure; rights to cattle inherited and to cattle brought in by the marriages of females of that lineage. Female children provide a means by which cattle will be acquired by the lineage in the future on the normal principles of distribution of bridewealth (*ghok kwi gwande*), and they further stand as a legal link between the lineages of the father and the mother, for the mother's relatives may also claim cattle from their bridewealth (*ghok kwi mande*).

Thus the children of a simple legal marriage will belong to the legal husband by whomsoever begotten (for they may be begotten in adultery—which does not affect the legality of the marriage). In 'ghost-marriage' children are attached to the name of the man on whose behalf the marriage was performed, although in other respects their relationship to their physiological father (*genitor*) is normally the same as that found in simple legal marriage. The *genitor* is usually the principal heir to the *pater* by reason of the fact that he performed the ceremonies on the father's behalf, and also through normal rules of inheritance derived from their relative positions in the kinship structure of their lineage. It is probable that the children will be brought up in their *genitor's* household, and he is therefore also their foster-father. He may die, however, and his position will be assumed by his own heir.

Similarly, in leviratic union or 'widow-concubinage' the status of the children is determined from that of their legal father, although he is dead. Their physiological father will have authority over them and rights in them derived from his relationship to their

8:Howell E, G-5 (1942-1944)1954
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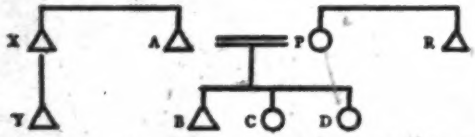
legal father, although, as we have seen, as *genitor* and foster-father he may acquire certain personal rights to cattle subsequently paid as bridewealth for daughters. These rights in bridewealth cattle, which are not in any case substantial, may be acquired whatever the circumstances, but it is clear that the greater the degree of coincidence in one man as heir to the *pater*, as *genitor*, and as foster-father, the closer the relationship between him and the children and the greater the rights he will hold. If there is a high degree of coincidence there will be no great need for an exact definition of rights.

In these circumstances the legitimacy of children in respect to the acquisition and inheritance of rights is clear. The law is logical and can always be carried to logical conclusions even though there is often a conflict in fact. It is obvious that there is an infinite variety of possible situations depending on the relationships within the kinship structure of the lineage of the persons concerned and the functions performed by persons outside the lineage as *genitor* or foster-father. For the purpose of illustration a number of such situations are recorded.

In Simple Legal Marriage



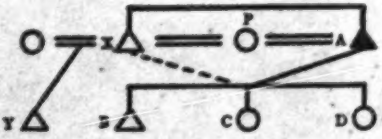
A married P by the transfer of bridewealth to R and his family.

(i) If all the persons recorded above are living, A, who is the legal father of B, C, and D, will be the link through whom their relationship to other members of A's family and lineage is traced, and A will be the point from which the distribution of the bridewealth of C and D will be determined.

(ii) If A is dead, the point of determination will be the same, but X, A's brother or, if dead, his son Y, will represent A, unless by that time B, A's son, has come of age.

(iii) It will probably be X (though it may be another brother or some more distant agnatic kinsman) who brings up A's children and will stand in the relationship of foster-father to B, C, and D, and as he is also A's heir until B grows up, he will perform most of the tasks of *pater*.

In 'Ghost-Marriage'



X married P on behalf of his brother A.

(i) Three children, B, C, and D, are born of this union. In this case A is legal father (*pater*) of the children and X is the *genitor*, but since X is also brother of A he will represent him as *pater*, and the distinction is not stressed.

8:Howell E, G-5 (1942-1944)1954
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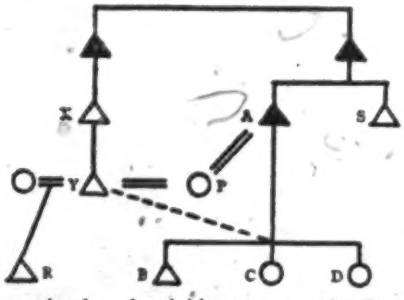
581
848
611

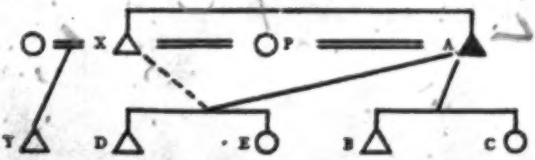
(ii) Hence in all matters concerning kinship obligations and inheritance, particularly in the matter of the bridewealth of C and D, A is the first point of determination in the kinship structure, and X, as his uterine brother and legal heir, comes next. X may expect the *pater's* portion of the bridewealth, a portion which may be inherited by his son Y, though in some cases—depending on their relative ages—B may inherit these as well as claiming the brother's portion.

The position may not be so simple as this. For example:



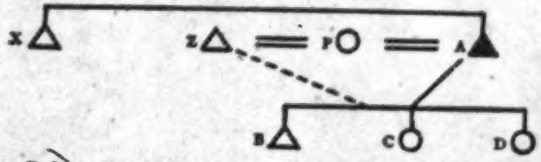
Y, one of A's less closely related kinsmen, marries P on behalf of A with cattle which he has inherited from A. Y is both *genitor* and foster-father of the children B, C, and D, and as heir to A he can claim many of the privileges of *pater*. He would normally claim the *ghok gwande*, the father's portion, on the marriages of C and D, though this will depend partly on the configuration of the lineage, since S or his heirs may have counter claims, but normally they could only claim the *ghok gwanlen*, the paternal uncle's portion.

In Leviratic Union



A marries P. She gives birth to B and C of whom A is both *genitor* and *pater*. A dies and P goes to live with A's brother X, who begets D and E. A remains *pater* of all these children, and they will all call themselves by his name. X is naturally foster-father of B and C and he is *genitor* of D and E. He is also *pater* to all four in the sense that he represents their interests and is legal heir to A, though here the future claims of A's sons will have greater emphasis than in 'ghost-marriage'.

c. 'Widow-Concubinage'



A marries P but dies before any children are born. P goes to live with Z, a relationship which is recognized by X, who is heir to A. Z is the *lum-*

8:Howell E, G-5 (1942-1944)1954
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or lover of P and has received the formal recognition of her late husband's kinsmen. Three children are born, B, C, and D. All these remain legally the children of A, and their rights are determined from his position in the kinship structure, but X, as heir to A, performs all the duties of *pater*. Z is merely *genitor* and in this case foster-father. On the marriage of C and D, he cannot claim the father's (*gwan*) portion, but he may expect to receive *yang leta*, which in this case may amount to two or three head of cattle since the union is a stable and agreed one. In such cases Z might be the *genitor* only while X brings the children up in his home.

The variety of circumstances in the examples given above is considerable, but all situations are not covered. The legal and sociological relationships of the members of a Nuer family are often a complicated matter. The family preserves the outward appearance of a simple legal union, and in day-to-day affairs the differences are not stressed. Analysis will, however, often reveal a complicated pattern and a variety of legal relationships which are relevant in the distribution of bridewealth and inheritance.

The system may appear complex and sometimes confusing. It is not so to the Nuer themselves and, in a court session, even if the court members are not already aware of the relationships involved, a few introductory remarks and a few pertinent questions will give them a clear picture of the legal aspect of the case before them.

Disputes sometimes arise over inheritance and the obligations of kinsmen in the collection of bridewealth on behalf of others. Clearly in such cases the legality of an individual's position within the framework of the lineage is relevant. Sometimes the *pater* himself, or more often his heirs, refuse to recognize the claims of a legal son who has been brought up in the home of the *genitor*. Sometimes the *genitor* acquires cattle on behalf of his natural son and holds them in trust. At a later date he or his heirs may refuse to hand them over, which amounts to a breach of trust. Such disputes are not frequent, and in the past were usually settled because public opinion will always press for the fulfilment of kinship obligations based on legitimate relationships. The courts are now often called upon to intervene.

The Position of Children born of Unmarried Concubines

Children born out of legal wedlock are illegitimate,[1] and strictly speaking should be linked to the lineage of their mother's father. Sometimes their *genitor* will choose to legalize their position by marrying their mother with cattle, and usually her family will press him to do so, particularly if she is not *keagh*, in the sense of a woman who is unable to remain long with one husband, or has been married before

[1] I am aware that the use of the term 'illegitimate' may be challenged. Children born in wedlock are *legitimately* the offspring of their mother's legal husband; children born of an unmarried woman are *legitimately* linked to their mother's lineage.

8:Howell E, G-5 (1942-1944)1954
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CHAPTER IV

THE VIOLATION OF RIGHTS IN WOMEN

1. ADULTERY

NUER courts come into operation only when a recognized wrong is committed, when the validity of some claim is in dispute, or when a man is unable to obtain his rights in cattle from a kinsman, relative-in-law, or debtor. The courts do not operate unless one of the parties resorts to them for one of these reasons, except in cases which are now in the nature of criminal offences: homicide, affray, assault, for example. The law is only clear when the law is broken, and it is in the analysis of disputes brought before the courts that the principles of Nuer law most clearly emerge. Disputes over marriage, that is, over the transfer and distribution of bridewealth or more probably over the return of bridewealth cattle in the event of divorce, do not usually appear before the courts unless a combination of circumstances makes a friendly settlement impossible; and it is symptomatic of the process of social disintegration now taking place in Nuerland that obligations in this connexion are increasingly ignored. In the past a man could only obtain redress if the sanctions for recognized rules of conduct operated with sufficient effect on the wrongdoer or if he had the physical strength, with the support of public opinion, to obtain his rights by force. Adultery, which is in no sense a criminal offence according to Nuer concepts, is now a common cause of legal dispute. There is reason to believe that adultery was less frequent in the past simply because the fear of physical retaliation was greater, and in a sense because acts which are now called adultery were not then treated as adultery at all.

We have seen that the Nuer do not attach great importance to physical paternity. It is legal paternity which is the primary object of marriage, but this does not mean that the relations of the sexes are indiscriminate and uncontrolled, or that a man will not resent encroachment on his exclusive rights to his wife's body. Every Nuer aims at attaching as many children to his name, and through himself to his paternal lineage, as possible. An old man will sometimes allow or even invite a stranger to have intercourse with his wife so that he may have children to further his name and interests in posterity. Whoever may be the physiological father of the children, his legal paternity is in no way impaired. As will be seen later, a man who is impotent may do likewise, though he is not likely to advertise the fact, for impotence is the object of scorn and ridicule among the Nuer.

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11:Evans-Pritchard E-5 (1931, 1936) 1945
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SOME ASPECTS OF MARRIAGE AND THE FAMILY AMONG THE NUER

I

Ordinary domestic life as we understand it in our own country—that is the living together of a man and a woman and the children begotten of the man and born of the woman—is based on the union of marriage. Such domestic relations we call the family. Among the Nuer the family in this strict sense is found side by side with other, and different procreative and domestic groups.[1]

Nuer marriage is a union instituted by payment of cattle by the bridegroom and his kin to the kin of the bride, and by a lengthy sequence of ceremonies. The bride remains in her father's home till after the birth of her first child and only then does she form a common household with her husband, and only then is the union reckoned complete. When I use the term "marriage" in an unqualified sense I refer to this type of union, and when I use the term "family" in an unqualified sense I refer to the husband and wife and children of the wife born in the union of marriage (but not necessarily begotten by the husband). The terms "marriage" and "family" are used in this paper, when qualified, to refer to other types of union and to other groups and, in contrast to these, I sometimes use the expressions "simple legal marriage" and "simple legal family" for the union and group described in this paragraph. Every male Nuer desires to contract a legal marriage for the children he begets are then legally, as well as physiologically, his own offspring and will be named after him.

II

If a man dies before he has married a wife, or if, having married a wife, she does not bear male children (even after his death), one of his kinsmen must marry a wife to his name. Daughters are not regarded as heirs, because a daughter becomes one of her husband's people and her children belong to her husband's lineage. Nuer say *Nyal, mo ram me gwa* ("A daughter, that is an unrelated person"). If we wish to keep close to Nuer idiom and to appreciate rightly their understanding of this form of union we ought not to say that a man marries a wife to the name of his dead

[1] I have visited Nuerland on four expeditions. I spent just over a year there altogether. My first two expeditions were made on behalf of, and were financed by, the Sudan Government. My third and fourth expeditions were made as a Leverhulme Research Fellow. Further information about the Nuer will be found in the following papers: "The Nuer: Tribe and Clan", *Sudan Notes and Records*, 1933, 1934 and 1935. "The Nuer: Age Sets", *ibid.*, 1936. "The Nuer: Economic Life", *ibid.*, 1937 and 1938. "Daily Life of the Nuer in Dry Season Camps", *Custom is King*, London (Hutchinson), 1936. Since writing the present essay I published: *The Nuer: A Description of the modes of Livelihood and Political Institutions of a Nilotic people* (Oxford, Clarendon Press, 1940) and *The Nuer of the Southern Sudan* in *African Political Systems* (ed. M. Fortes and E. E. Evans-Pritchard) (Oxford University Press 1940).

11:Evans-Pritchard E-5 (1931, 1936) 1945
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588 youths die before marriage—and this was yet more the case before the
768 Government restricted fighting—but, for one reason or another, married men do not always leave male children to continue their line. A man's children may die. He and his wife may die. His widow may have no children or go back to her own people and be married to another man. He may beget only daughters.

Even if a man begets sons who become initiated men he may leave no male heirs for these sons may die before they have married and begotten children. In this case a man's kinsmen must raise up seed not only for him but for his dead sons also. Thus in Diagram No. 1 A ♂ dies leaving two initiated sons B ♂ and C ♂ both of whom die unmarried. E ♂ will then marry A ♂ a wife (N ♀) with A's cattle and by her beget F ♂ and G ♂. When F ♂ and G ♂ reach manhood they will marry wives (Q ♀ and Z ♀) to the names of their brothers, C ♂ and B ♂, before taking wives to their own names.

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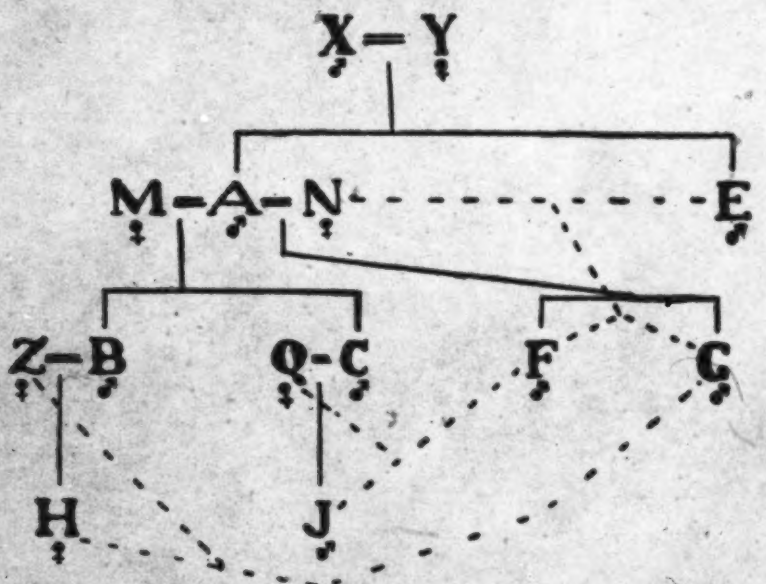

Diagram I

Moreover all the men who in the last generation married wives to the names of sonless kinsmen and were unable to marry further wives in their own right are legally childless because the children they have begotten count as children of the kinsmen to whose names the wives were married. It is the names of these dead kinsmen, and not their own names, which will ultimately survive as links which attach children to their trees of

11:Evans-Pritchard E-5 (1931, 1936) 1945
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ascent. Thus in Diagram No. 1 F ♂ and G ♂ take wives to the names of C ♂ and B ♂. The children of these unions (J ♂ and H ♀) are children of C ♂ and B ♂. Therefore F ♂ and G ♂ will be left childless if they cannot afford to marry further wives in their own right. This frequently happens when there is a large family and one brother marries another, and dead brother, a wife, for the living brother may never again be rich enough to contract a legal marriage on his own account. He enjoys the material advantages of matrimony in the person of his brother's wife and his younger brothers have the right to marry wives with the family herd before he can contract a legal marriage. If, in this way, a man marries a wife to the name of a dead brother and does not later marry a wife of his own, then one of the sons he has begotten (his physiological sons and legal nephews) will marry him a wife after his death.

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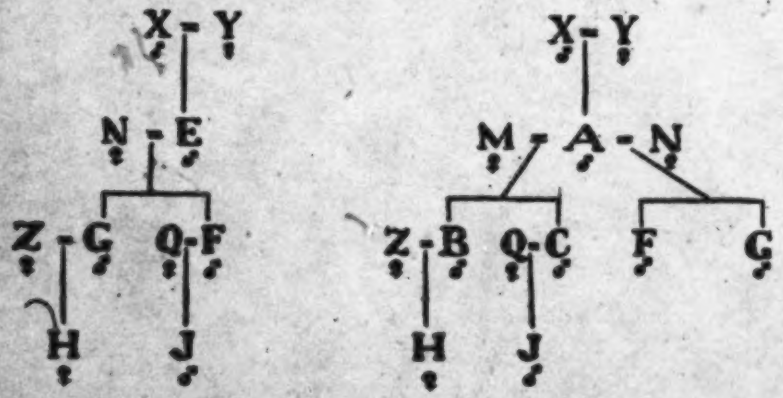
During the childhood of ghost-children the fact that in legal reckoning their father is a ghost is of small importance, since their relations with their genitor are exactly what their relations with their pater would be, were he alive, but after the ghost-sons are initiated their relationship to their pater has more significance since it confers on them legal and ritual privileges. The man who stands in the place of the pater may be all-important in his lifetime but the pater's name looms larger when the children grow to maturity and, Nuer tell me, it is the pater's name that will finally survive in genealogies at the expense of the vicarious parent. This point will be more readily understood later but it is worth contrasting here, as is done in Diagram No. II, the legal descent of the persons shown



Natural Descent **Legal Descent**

Diagram II

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588 in Diagram No. I with their natural descent. J. ♂ will trace his ascent to
768 X ♂ through C ♂ and A ♂ and not through F ♂ and E ♂.

611 The commonest ghost-marriages are instituted on behalf of brothers, paternal uncles, maternal uncles, and fathers. By "fathers" is here meant physiological fathers though occasionally a man honours his true father (his pater and genitor) by marrying him a wife after his death, although this is not necessary because the man already has heirs.

582 Though a sister's son may marry a wife for his maternal uncle, a
588 maternal uncle is forbidden to marry a wife for his sister's son. Nuer
768 have even told me that it would be "incestuous" (*riual*) were he to do so. I was told, however, that a maternal uncle may espouse a wife to his dead sister's son so long as he does not himself have intercourse with her but allows a stranger, most likely a Dinka, to beget the children. The Dinka is also said to take the place of the husband in the marriage ceremonies during which the maternal uncle addresses his sister's ghost: *Nyimar, Jangemo, be mac gaanku pet* ("My sister, this Dinka will kindle the fires of your children" i.e. give them posterity). I have not recorded any actual arrangement of this kind and it is possible that it is the sister and not the sister's son who is married a wife.

Likewise a man's father, either pater or genitor, and his father's brother would not marry him a wife. It would seem that a man of a senior generation is not allowed to marry a wife to the name of a kinsman of a junior generation because the man would then be both vicarious husband to the wife and her father-in-law. One Nuer whom I asked why a maternal uncle might not marry his sister's son a wife replied "He is her (the wife's) father-in-law (*gwanthu*)". A husband's mother's brother counts as a "father-in-law". A man may not marry his father's sister's son a wife because he would be doing so with the cattle of the ghost's maternal uncle.

Also a man never marries a wife to the name either of his father's father or of his mother's father. It was the duty of their sons to have done this. *Gwan naru me ce lieu, ci ye de kuen cek*, "The father of your maternal uncle who has died, you may not marry him a wife."

428 In those cases I have investigated where a man has married his maternal
588 uncle a wife he has done so because he has obtained possession of his
768 maternal uncle's cattle. A man without sons or brothers may die and his cattle pass to his sister's son on the understanding that he uses them to raise up seed to his uncle. Members of the maternal uncle's lineage will not object to this procedure though they sometimes expect the sister's son to come and live in their village and raise up seed to his uncle in his uncle's old home. Occasionally it happens that when a girl is married her maternal uncle and his near kin are already dead so that there is no one to receive "the cattle of the maternal uncle". This part of her bride-wealth therefore goes to her brother in order that he may use the cattle to marry his dead uncle a wife. However, when a sister's son marries his maternal uncle a wife it is only in the absence of a close agnatic kinsman. He is not the most approved substitute for the dead man and acute difficulties may arise later between the children he has begotten and himself.

11:Evans-Pritchard E-5 (1931, 1936) 1945
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rare and of little social importance. I know of no cases at first hand and am therefore unable to vouch for the information given to me and to say what are the interrelations between the people concerned. On the other hand ghost-marriages in which a man takes a wife to the name of a dead kinsman are so common that several cases can be recorded in even the smallest village. A large number of such unions are listed and shown diagrammatically later in this paper so that I will only instance a single typical case here. Most of the people in Diagram No. IV belong to the Thiang tertiary section of the Lou tribe and dwell at Kurmayon on the Sobat River. Thiep ♂—Gol ♂ was slain by Dinka and his sister's son, Duob ♂, married him a wife, Kan ♀—Bie ♂. Kwany ♂—Thiep ♂, my informant, was born of this union. Loc ♂—Buai ♂ (or Loc ♂ -Nyakweka ♀ as we called him at Kurmayon, his mother's village) was slain during fighting between the Thiang and the Yol tertiary sections. His brother's son, Lam ♂ -Duob ♂, has married him a wife, Nyabiem ♀—Bel ♂. It is worth noting that Kwany ♂ gave several cattle to marry Nyabiem ♀ to Loc's name because Loc ♂ is his father's sister's son (he used to speak of him as *gat gwar*, "son of my father").

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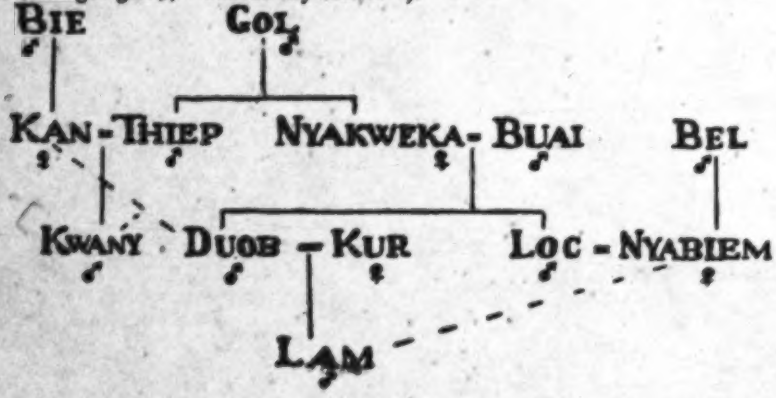

Diagram IV

Another type of procreative union results from the custom of the levirate. When a man marries, his kinsmen provide the bride-cattle and the cattle go to the wife's people and there breed and provide them with food, and with cattle for their own marriages. The wife leaves her kinsmen and becomes one of her husband's people. Her reproductive and economic services are not due to her husband alone but to all her husband's near kinsmen who speak of her as "our wife". If the husband dies Nuer do not regard the union as broken. The wife continues to bear children and, whoever may beget them, they are counted as children of the dead man. But though the status of the genitor does not affect the children, who take their status from their pater, it is considered that a

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[611]

11:Evans-Pritchard E-5 (1931, 1936) 1945
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587 768 593 milks the cows, and performs other domestic services for her sons. If she is dead and her eldest son is married his wife acts as a cook, housekeeper, and dairy maid, for her husband's brothers and sisters. Unmarried youths are then dependent on the wife of a full brother for daily necessities and if he dies and his wife does not consent to live with one of them they lose not only a sex-mate but also a housekeeper, cook, dairy maid, and gardener. They therefore strongly object to her going to live with a lover outside their village. If they are on good terms with their half brothers they will not resist her desire to live with one of them but will group themselves around the half brother whom she has chosen to live with, and will share his byre and enjoy the services of their dead brother's widow in his homestead. I was told that if they are not on good terms with their half brothers they may object to the widow living with one of them and may tell her that if she refuses to live with a full brother of her husband she had better take a lover outside their kin and bear children to the dead husband by a stranger. Occasionally a widow lives with her husband's sister's son.

The very limited control of brothers over the widow of one of them is seen in domestic facts rather than in legal theory. In fact many Nuer widows do not live with kinsmen of their dead husbands. Among the Eastern Nuer it is hoped and expected that a young widow will consent to live with one of her husband's brothers or sons and her husband's kinsmen try to persuade her to accept this arrangement; but it is rare for them to force her to choose between divorce and leviritic marriage and, if she declares firmly at her husband's mortuary ceremony that she will not live with one of his kinsmen, they permit her to take any lover whom she chooses. She then goes to "Give birth in the bush" (*dieth dor*), as the Nuer say. This means that she either continues to occupy her dead husband's homestead and there cohabit with one of the villagers, or that she leaves the village and goes to live as concubine to a stranger elsewhere. [848] [611] Her husband's people permit her to take this course because all the children she bears are their children, being counted as sons and daughters of her dead husband. Her husband's people have legal rights over the children and may take charge of them in which case the mother, when she is old and past child-bearing, will probably return to her husband's home to be with her grown-up sons. "When a widow who has gone to live with a stranger is old and can bear no more children she will cease to wander and will return to her husband's people and settle there with her children."

Among the Western Nuer the kinsmen of a dead man insist that if his widow has not borne children, or has borne only one child, she must live with one of them. If she refuses they may claim back their bride-cattle [586] i.e. divorce her. If she has borne one child they leave six head of cattle with her parents to retain control of the child and to affiliate him to their lineage. But if she has borne two or more children to her dead husband his people cannot claim back their bride-cattle if she refuses to live with one of his brothers. *Ghok te jokdien ka nath caa ka de lony*, "Cattle which have children on their backs cannot be returned".

11:Evans-Pritchard E-5 (1931, 1936) 1945
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587 768 593 591 dead, so that they may view with equanimity the departure of the widow and her children, having no feelings of close parentage towards the sons and being assured that they will receive whatever bride-wealth is their due on the marriages of the daughters, wherever they may be brought up.

[611] Most depends upon the decision of the widow herself (*riet cek*). If she determines to live away from her husband's village with a stranger his kinsmen warn her that any children she may bear are the children of her husband and that one day they will bring them to their father's home. Among the Eastern Nuer, only if she does something that deeply offends [586] them will they divorce her. Among the Western Nuer they may divorce her if she has not borne her husband two children but how often this is done I cannot say.

Occasionally, I was told, a man directs (*nop*) from his deathbed that a certain kinsman is to live with his wife. It is difficult for a woman to defy [776] such an injunction because Nuer believe that if she does so the ghost of her husband will haunt her and she will cease to bear children or her children will die.

587 611 A widow who lives with a stranger after the death of her husband is called *cek ma lak* and a child born of such a union is called *gat laka*. The children of a widow wherever they are born, or by whomsoever begotten, count as children of her dead husband, the man to whom she was married by payment of cattle, whether she was married to him in his lifetime or vicariously after his death. If the husband dies, or was already dead before his marriage, the actual configuration of the household may alter but the formal structure of the family remains the same. Indeed the family may never be a group of people with real interrelations because the husband and the father may have died many years before his marriage to his wife and the birth of his children. Among Nuer the pater is the husband to the mother. His legal fatherhood is defined by his status to the mother of the children and not by his physiological functions.

587 593 A *cek ma lak* is translated in this paper as " widow-concubine " for she is living simply as a concubine to her lover and he has no legal rights over her. He cannot compel her to live with him and cannot claim compensation if she commits adultery. He has no legal control over the children who can be taken away from him by her husband's kinsmen whenever they choose to remove them. His position is thus very different from that of a man living with his dead brother's wife. If she leaves him he can divorce her and if she commits adultery he can obtain redress. Moreover, he has legal control of the children during their minority and no one can take them from him as he stands in the place of the pater.

The group that results from the union between a man and a widow-concubine when the children are born by the concubine to her lover is a natural family which stands in what is sometimes glaring opposition to the legal family. The corner-stone of the natural family is the genitor who is acting as husband and foster-father. The corner-stone of the legal family is the dead husband and pater. According to circumstances the position of the genitor in a household of this kind may be precarious or his relations to members of his natural family may approximate to

11:Evans-Pritchard E-5 (1931, 1936) 1945
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those of a pater towards members of a legal family. It must be emphasized that while the natural family is not a legal family the position of the genitor is socially recognized in a number of ways and that the natural family is often a group of persons living in a common household and cooperating in economic and other domestic undertakings. Widow-concubinage is not a purely biological union nor is the natural family a purely biological group. 587 593

Sometimes a widow elects to live with a clansman of her husband. In this case Nuer speak often of his relationship to the widow as leviritic marriage but this is by courtesy and his legal position is not much better than that of a totally unrelated man would be. I only speak of leviritic marriage, therefore, when it is a brother or son of the dead man who takes his wife.

The simple legal family is not contained in the structure of the natural family in the way it is contained in the structure of ghost-families and leviritic families, and the natural family cannot be regarded as a variation of the legal family, because, whereas in ghost-families and leviritic families the legal representative of the pater is the foster-father, and maybe the physiological father, of the children, in the natural family the legal representative of the pater is not the physiological nor entirely, if at all, the foster-father of the children. In fact, as we shall see later, there may be a struggle between the interests of the natural family and the interests of the legal family, as represented and expressed by the legal representative of the pater.

It will have been seen that the role of a father among the Nuer is often split and different parental functions are performed by different men. The man who was married to the mother of children at the time of their birth we may call the pater or legal father. The man who begot the children we may call the genitor or physiological father. The man who who acts as protector and bread-winner to the household of which the children and their mother form part, and who performs all those intimate services towards the children which are generally associated with the status of father, we may call the foster-father. I refrain from calling the pater the sociological father because all the men who perform these different functions receive social recognition.

When children are born in the union of simple legal marriage the same man is pater, genitor, and foster-father. When children are born in the union of ghost-marriage or in the union of leviritic marriage one man is the pater, and another man is both genitor and foster-father. When children are born of a widow-concubine, the pater is her dead husband, the genitor is her lover, and the part of foster-father is played in early childhood by her lover, or lovers, while in later childhood and in adolescence it is often played by a kinsman of the pater. 611

IV

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In true marriage, ghost-marriage, leviritic marriage, and widow-concubinage a mother is always legally married and all her children belong in virtue of her marriage to her husband's lineage and clan. But there are 848 611 593

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588 also in Nuerland many children born of unmarried mothers and children
848 born of an unmarried mother may belong to different social groups, be-
●611 cause their physiological fathers have a right to pay a fee of from four to
593 six head of cattle to legitimatize their natural children. The payment of a fee makes the child a member of the genitor's household. The genitor of the child of an unmarried woman is also his foster-father if the man and woman continue to live together. If the woman takes a new lover she goes to live with him and if her child is small she takes it with her. In this case the genitor is one lover and the foster-father is another lover but when the child is older he becomes a member of his genitor's household. A child of an unmarried woman has no pater but his genitor becomes his pater, on payment of a fee (*ruok*). This fee becomes the property of the woman's father and is not divided among her kinsmen as bride-wealth is divided.

Many a Nuer girl finds cohabitation with the husband to whom she has been espoused too painful to continue and if she is stubborn she will provoke a divorce. This may happen a second time with a second husband and her parents finding they are unable to crush their daughter's rebellious spirit let her do as she pleases since constant return of her bride-cattle involves them in trouble and difficulties. Such a girl thereupon cohabits with a man of whom she is fond. If she is restless she may spend a few years with one lover and then a few years with another. She moves from village to village taking her infants with her and bearing children by a number of different men. In every Nuer village where I made enquires I have found one or two unmarried mothers. Nuer call an unmarried mother (*cek ma kea*) and in this paper they are referred to as "unmarried concubines". The child of an unmarried concubine is a *gat keaka*.[1]

588 In some respects the social position of unmarried mothers, and their
[848] children, is not as high as that of wives, and of children born in wedlock. The mothers do not stand so high in public esteem and in a quarrel a man may throw the reproach of bastardy at the child of an unmarried concubine. A man who has begotten a child by an unmarried concubine is seldom eager to legitimatize his union with her by payment of bride-wealth because these women are known to be restless and he expects that she will one day leave him as she has left a previous lover to come and live with him. But they are not treated as of inferior status and their lovers behave towards them as towards wives—in fact they often treat them better than wives for if a man fails to treat his concubine well and to perform those services to her which a man is expected to perform for his wife she will leave his home, whereas a wife is not in a position to depart so easily. One cannot tell who is wife and who is concubine in a household by bare observation of their behaviour and the behaviour of their

[1] In Lou country people often speak of them by the term for the children of widow-concubine, *gaat laka*. In this part of Nuerland the expession *cek ma lak* is seldom used for a widow-concubine. Linguistic differences of this kind are often found in different parts of Nuerland but I have not considered it worth while always to record them.

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585 431 possibly three or four cows for having brought C ♀ to maturity, the cattle due to him as a father's brother and perhaps any cattle due to the grandparents X ♂ and Y ♀. In Fig. III when C ♀ is married the cattle of the parents go to D ♂, P ♂, Q ♂, and R ♂. Z ♂ gets the "cow of begetting", probably an extra cow or two of his services to the family, what is due to him as a paternal uncle, and, perhaps, any cattle due to the grandparents X ♂ and Y ♀. Some of "the cattle of the father" would be the portion of R ♂, and the "cattle of the mother" would be the portion of D ♂, P ♂, and Q ♂. In Fig. IV "the cattle of the father" and the "cattle of the mother" belong to D ♂, P ♂, and Q ♂; "the cattle of the father" belonging more particularly to D ♂, who alone of the children was begotten by their pater. T ♂, who is living with the widow and who has begotten by her two sons and a daughter (the bride C ♀) receives "the cow of begetting" and three or four head of cattle for having brought the family up. In Fig. V B ♀ is an unmarried concubine who has borne a son D ♂, and a daughter C ♀, to A ♂, who has paid legitimatization fees for both children. She then left A ♂, and went to live with P ♂, by whom she has borne a son W ♂. On C ♀'s marriage the cattle of the father belong to A ♂ and the cattle of the mother go partly to D ♂, and partly to W ♂. As A ♂ is pater to C ♀, there is no "cow of begetting". In the statements made above I give only the principles of distribution of bride-wealth. Actual distribution is often more complicated and depends on variable conditions.

VII

Before asking the reader to accompany me round a Nuer village to enquire into matrimonial and domestic conditions I would ask him to bear in mind in a summarised form the following main features of Nuer marriage :—

581 585 431 (A) It is payment of cattle which defines the exact status of each member of the various procreative and domestic groups to the other members of the same group, or, otherwise expressed, the status of each member receives recognition by payment of cattle. The man in whose name cattle were handed over to the kin of the woman at her marriage is the pater of her children, whether he lives or dies—even a woman who marries a wife being counted as the pater. The cattle of the father invariably go to him or to his heirs. Likewise the bio-sociological father in his various degrees of physiological and foster parent is recognised by payment of cattle, and payment of cattle legitimatizes children born out of wedlock. Nuer discuss all these relationships in the idiom of cattle.

611 (B) The position of pater is legally predominant. Through him even though he did not beget or even see them, his children trace their descent. They belong to his lineage and clan and share in all that traditionally pertains to these groups. From him they inherit. His herd is their birth-right and any cattle which would have been due to him had he been alive belong to them as his heirs. Whatever social or ritual status he may have had they may succeed to. Little though their relationship to their

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611 pater may count in childhood it grows in importance as the children reach manhood.

593 (C) Children may be born into two families and brought up in several households. This may lead to a clash of interests and divided loyalties. This is most likely when the pater is represented by a man who is not the genitor and foster-father of the children, and is least likely when the genitor and foster-father is a legal substitute for the pater.

611 (D) Legal paternity has a very different significance in the case of
593 sons and in the case of daughters. The pater's kin want the sons to live
562 in their home for reasons of sentiment and because they increase the strength of the group. The sons are drawn to their pater's kin by sentiment and self-interest. Their pater's people are their true kin and only in their pater's village are they owners of the soil and of the cattle. A man who wants to inherit his father's cattle and to receive portions of the bride-wealth of the daughters of his kinsmen should go to live among his father's kin and there marry a wife and beget children to their lineage. The pater's kin care little whether his daughters come to live with them or not. "Daughters are unrelated persons." They will bear children who will be members of other groups. So long as the pater's kin receive the cattle of their bride-wealth they do not mind what happens to their persons. Daughters often do not, therefore, join the kin of their paters but may be married from the homes of their genitors or foster-fathers. They are not compelled by sentiment or self-interest to join the kin of their paters.

583 (E) Types of procreative unions and families are classed by the nature
611 of the social tie that links children to their pater, and of the social relation-
593 ship between pater and genitor, and not by the tie that links the children to their mother. This is because the mother is comparatively unimportant from the legal standpoint since men take their status and derive their privileges mainly from their pater. Moreover the functions of motherhood are not divided among several women as the functions of fatherhood may be divided among several men. The legal mother, defined by the bride-wealth paid to her kin on her marriage, and by the cattle she receives as such on the marriage of her daughters, is always the biological mother. Motherhood has only split roles when a woman lives apart from her children, as may happen with widow-concubines, and in these cases the women who provide the children (who are not their own children) with food do not receive legal recognition of their services. The general social, rather than specific legal significance of motherhood is treated elsewhere.

583 (F) I do not more than draw attention here to the effect on kinship
602 structure and sentiment of the different types of procreative unions. The fact that men in ghost-marriage and leviritic marriage raise up seed to their kinsmen has the effect that the group of kinsmen have closer relationships and a greater sense of common interests than they would have if they were all children of different simple legal families. The wider kinship group gains at the expense of the restricted family group. The prevalence of widow-concubinage and unmarried concubinage also strengthens sentiments of kinship, because there is in these cases no single undivided

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592 593 588 of the kraal and homestead with the skill of an experienced herdsman and householder and stands no interference in matters pertaining to the cattle, even from her initiated son, Majak ♂.

592 588 *Homestead No. II.* Col ♂ —Ngunjok ♂. He lives with Nyarueni ♀ whom he married to the name of his father (see Diagram No. VII). He is now contemplating marriage on his own account. I am uncertain whether Nyarueni has a baby or not. The byre of this homestead originally belonged to Wec ♂ (see Homestead No. X.), who sold it to Col ♂ for a he-goat. One of the huts belonged to Nyaluthni ♀ (see Homestead No. I), who lived there for a time before moving to her present hamlet.

●[611]

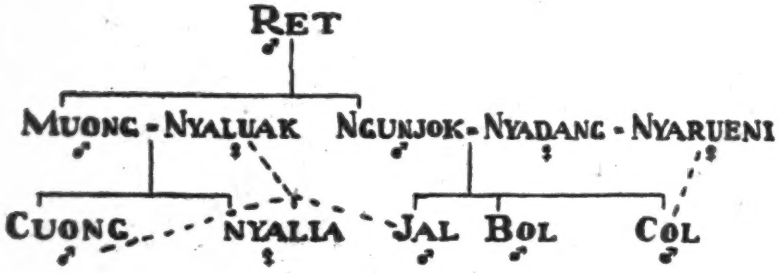

Diagram VII

Homestead No. III. Baranyai ♂ —Kwenwar ♂. He lives with a woman whom he married to the name of his maternal uncle Yoah ♂—Pan ♂. In our village we speak of Baranyai's mother as Nyajal ♀—Kuth ♂ and those who know about her brother speak of him as Yoah ♂—Kuth ♂ but this usage is not correct because their pater was Pan ♂, a man of the Jikul clan. After Pan's death in an epidemic of smallpox his children were brought up by Kuth ♂. On the marriage of Baranyai's sisters there were no claimants to the bride-wealth on the maternal uncle's side, Yoah ♂ and his brothers and sons being all dead, so "the cattle of the maternal uncle" went to Baranyai and his brothers. Baranyai received most of them and married his maternal uncle a wife with them. He has begotten by her Ngundeang ♂, Rwot ♂, and Thak ♂. A natural son of Baranyai ♂, named Galuak ♂, also lives here. He was born of a widow-concubine, Nyadang ♀ (see Homestead No. XXI). Baranyai also has a small daughter by another widow-concubine, Nyadut ♀, (see Homestead No. XVIII). She lives with her mother. Baranyai has no legal wife of his own.

Homestead No. IV. Nyamani ♀, widow of Luak ♂. To her husband she bore Bilieu ♂ and a daughter. Since her husband's death she has cohabited with Panyuan ♂ (see Homestead No. IX) by whom she bore twins who died and Bol ♂. She was pregnant with another child when I left the village. See Diagram No. IX.

Homestead No. V. Wang ♂. He is unmarried.

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Homestead No. VI. Rainen ♂—Ngwoth ♂. He lives here with his legal wife, Nyadang ♀—Col ♂, by whom he has begotten two sons and five daughters. His byre has fallen down and his cattle are housed in the byre of homestead No. V. The mother of Wang ♂, the owner of this byre, shares a hut with Nyadang ♀. During my visit a Dok girl was living here as unmarried concubine to Rainen's eldest son, Nhial ♂.

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Homestead No. VII. Juan ♂—Tien ♂ (brother of Yang ♂ of homestead No. XIX). He lives with Nyaghok ♀, one of his father's widows. His mother, Tikjac ♀, a Lek woman, also lives at his home. Tikjac ♀ bore her husband two sons, Yang ♂ and Juan ♂, and two daughters, Nyayoah ♀ and Nyathal ♀. She is now past child-bearing. Tien's second wife, Nyaghok ♀, a Dinka woman, committed adultery during her husband's lifetime with one of his distant agnatic kinsmen, called Deng. A boy, Dadou ♂, was born of this adulterous congress. He also lives in this homestead. After Tien's death Nyaghok ♀ cohabited with his son, Juan ♂, to whom she bore a daughter, Mer ♀. See Diagram No. VIII.

[611]

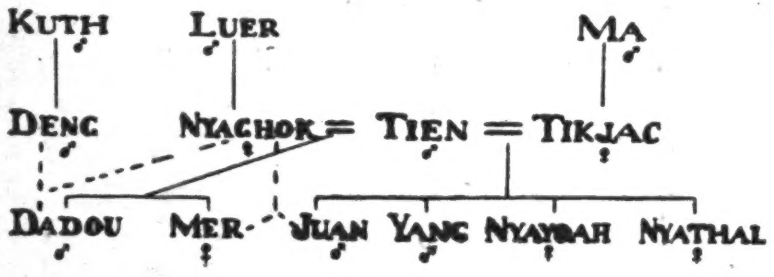

Diagram VIII

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Homestead No. VIII. Nyaruithni ♀—Kwenwar ♂, the widow of Rwacar ♂. She is now past child-bearing and does not cohabit with any man. During Rwacar's lifetime she bore two children, but neither by him, both being the fruit of adultery. Her daughter, Nyakewa ♀, who was killed this year by lightning, was begotten by Luin ♂—Kwany ♂, a Lek tribesman, and her son, Malith ♂ was begotten by Gak ♂—Yol ♂, a Jikany tribesman. Her brother's son, Gai ♂—Karlual ♂, lives in her byre and looks after her herd.

Nyaruithni's sister Nyaudol ♀—Kwenwar ♂, paid a visit to her homestead this year. When Nyakewa ♀ was killed by lightning Nyaudol's husband, Yoah ♂, was killed at the same time. Nyaudol ♀ says that since she is now a widow she will remain at Nyueny with her children by Yoah ♂: Weetwok ♂, Bilieu ♂, Gatdwiel ♀, and Nyankeni ♀.

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Homestead No. IX. Karlual ♂—Kwenwar ♂. He first married Nyakuon ♀—Kok ♂. She died without children and the cattle were returned (Tang ♂—Karlual ♂ married a wife with them). Karlual ♂ then married

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IX

I commenced this paper by outlining the formal structure of the family and other procreative and domestic groups and then illustrated these groups by a survey of a typical Nuer village and some genealogical tables. We must now enquire what are the actual relations between members of these different types of domestic groups and, in particular, what are the relations between a father (pater, genitor, or foster-father) and his sons.

It is often difficult to know what these relations are and I only know a few households sufficiently well to be able to assess them. Indeed, it is often difficult to discover even the formal status of members of a household and I have no doubt that a longer investigation at Nyueny and elsewhere would reveal that some unions which I have thought to be simple legal marriage are unions of a different order.

The difficulty is due in part to the fact that Nuer are not consistent in their use of kinship nomenclature. If a man marries a woman and she bears him a son, the child is always called after his pater, e.g. Nhial ♂ is always known as Nhial ♂—Rainen ♂ (Homestead No. VI). Likewise if a child is born to a man during his lifetime by adulterous congress between his wife and another man it is always called after the pater (at any rate in the pater's village. It might be called after its genitor in his village though I cannot assert that this is so), e.g. Dadou ♂ is known as Dadou ♂—Tien ♂ (Homestead No. VII). An orphan (*ret*), i.e. a child born of a leviritic union is also generally called after its pater, e.g. Mer ♀—Tien ♂ (Homestead No. VII).

On the other hand, when a man marries a wife to the name of an agnatic kinsman a son born of this union is in ordinary social life called after the man who stands in the place of the pater and who has begotten the son. One rarely hears his name coupled with that of his ghostly pater, though it is so coupled at ceremonies. When the boy is initiated they tell his pater: "See, your son has been initiated. He has become a man. Your fire is kindled"; and when he is married they tell his pater: "See, your son is married. Your descendants will not cease. They will remember your name." A man's name is also coupled with that of his pater in legal situations where ownership of property is at issue.

But ordinarily such children take the name of their genitor and one may remain ignorant that the genitor is not also the pater. Thus I spent over three months in the tiny hamlet of Yakwac in 1931 without knowing that Kerker ♂ was not the pater of the boys whom we always knew as *gaat Kerker*, "the sons of Kerker". I spent hours every day with these boys but it was by mere chance that I discovered that Kerker had married a wife to the name of this dead brother, Duob, and had begotten my companions. When I visited Yakwac again in 1935 Kerker had died and his eldest son (legal nephew), Wan, had married him a wife, Kur ♀—War ♂ to perpetuate his genitor's name. The children begotten by Wan ♂ in this union will be legally his father's brother's children. Similarly in the village of Nyueny, I would certainly never have discovered that such men as Wec (Homestead No. X.) and Loc (Homestead No. XIV) were not the paters of their children had I not made persistent enquiry.

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611 Nevertheless, Nuer tell me that in course of time the name of the pater survives and the name of the genitor is forgotten, even though the name of the pater is little used in the lifetime of his children. When a man marries a wife to the name of an agnatic kinsman it might seem that it does not matter whether the descendants of this union trace their ascent to the founders of their lineage and clan through their pater or through their genitor, but the purpose of ghost-marriage is to preserve the name of the pater, and, according to Nuer, the name of the genitor is therefore likely to be effaced in time. The name of the pater has an almost purely ritual and legal significance during the lifetime of his sons and in succeeding generations this significance endures, if in an ever-lessening degree, whereas ties between sons and their genitors being based on sentiment and common domestic interests do not long survive the conditions that create them.

The position is rather different when a man marries a wife to the name of his maternal uncle for then the man and the children he begets belong to different clans. The name of the pater is here very important, even in the lifetime of his sons, because it is from him, and not from their genitor that they inherit their clan and lineage emblems. The sons have no *buth*, agnatic kinship, with their genitor and neither he nor they can act for the other in a ritual capacity at ceremonies. The children belong to different social groups to their genitor and this is sometimes very apparent on ceremonial occasions. Normally, therefore, a son born of such a union is called after his genitor in his genitor's hamlet, and perhaps even in his village and district, but is called after his pater among his pater's people. Thus my servant Wia ♂, whose history is recorded later, was always known to us at Yakwac as Wia ♂—Cam ♂, because Yakwac was Cam's hamlet, and he was also known as Wia ♂—Cam ♂ among the Gaajok tribe, because Cam was a Gaajok aristocrat by adoption; but throughout Lou country he was known as Wia ♂—Dar ♂ after his pater, because Dar ♂ was a Lou aristocrat. It is only when the pater has no kin to join his name to the names of his sons that the name of the sister's son (genitor) almost entirely obliterates, for the time being, that of the mother's brother (pater). Thus I was informed that it is generally unknown that the sons begotten by Baranyai are not his legal sons but are the legal sons of Pan (Homestead No. III). At Nyueny we always referred to them as *gaat Baranyai*, "sons of Baranyai" and Pan has no close kin alive who might refer to them as *gaat Pan* "sons of Pan". Nevertheless, the name of Pan is likely in the long run to survive that of Baranyai.

When a widow goes to live with a lover who is not a kinsman of her dead husband and bears him children in concubinage the children are called after her lover in his village and amid his kinsfolk, but they are called after the dead man in his village and amid his kinsfolk. Thus Rainen ♂ and Dol ♂ are known to everyone in Karlual country as sons of Ngwoth ♂ because Ngwoth was a man of the Jikul section of the Karlual tribe but when they go to Bul country they are called sons of Luak ♂, because Luak ♂ was a Bul tribesman. In this way a man may even be called after different fathers in different hamlets of the same village, e.g. Galuak ♂

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(Homestead No. III) was known to us at the northern end of Nyueny as Galuak ♂—Baranyai ♂ but at the southern end he was known as Galuak ♂—Diet ♂, because whilst his genitor, Baranyai ♂, lived at the northern end the kinsmen of Diet ♂, his pater, lived at the southern end. Two ways of referring to a boy may run concurrently in the same hamlet. Thus we spoke equally of Bol ♂—Luak ♂ (pater) or Bol ♂—Panyuan ♂ (genitor) in the hamlet of Nyueny ♂ (Homestead No. IV).

When the kin of the pater are numerous and near by and take an interest in the children his name has as much, if not more, currency, than that of the genitor, even though the children continue to live in the genitor's homestead. When the pater's kin take charge of the children his name is used almost exclusively, that of the genitor only surviving among his kinsmen and fellow-villagers. But when the pater's kin live far away, are a small people, and are not closely enough related to the children to take an interest in them the name of the genitor may become established to the detriment of the pater's name, e.g. Karlual ♂—Kwenwar ♂ (Homestead No. IX) and his brothers and sisters are almost always referred to as children of Jany ♂ because they live in Jany's district whereas Kwenwar ♂ was a man of different tribe and his kinsmen have never shown any interest in the children, as will be explained in greater detail later. (In cases of this kind no Nuer thinks of enlightening one about the legal interrelations of the persons concerned and it is necessary to enquire into them if one wishes to discover them.) But however exclusively the lover's name may be used during the lifetime of his sons it has little chance of permanent survival because legally and ritually the children of these sons are united to the lineage of their pater and not to the lineage of their genitor.

Whether it ever happens that the name of the genitor permanently replaces the name of the pater I cannot say. If this were to happen I would expect the line springing from the genitor to regard themselves as members of the pater's clan and to incorporate the genitor into one of its lineages.

Sometimes a man is called after his foster-father. This may happen if the child is born in widow-concubinage and is removed by his mother from the home of his genitor to that of a new lover's home. An example is Nyajol ♀—Kuth ♂ (Homestead No. III).

The patronymic selected by a man for the ordinary purposes of life depends mainly on his place of residence because the name links him to a group. Thus a man who lives in his genitor's village is likely to take his genitor's name and thereby assimilate himself to his local group through ties of kinship. The action is reciprocal because members of the group also incorporate him into their community by use of kinship terms and patronymics; and it is they who give him the name rather than he who takes it. Similarly a man brought up in his maternal uncle's village is generally referred to after the name of his mother and if his descendants remain members of the group this woman is treated in their tree of descent as though she were a man. All Nuer obligations are those of kinship and the patronymics of persons and the kinship terms used to them are

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611 not only indications of their status but also a means of evoking behaviour. Hence it is understandable that a man takes different patronymics in different localities.

611 A child who is old enough to walk and to speak always knows his pater's
867 name regardless of the manner of his birth and the place of his upbringing. His mother always teaches him his pater's name and if there are any of his pater's kin in the village they will impress on the child his true patronymic. Therefore one may ask a very small child for the name of his father and though he will give you the name of his genitor if he is living in his home you can ascertain the name of his pater by asking him the name of *gur dodien*, " your other father ".

611 Owing to the Nuer custom of referring to women of all ages by their proper names one would not usually speak of a woman as " the wife of so-and-so " unless one wished to indicate especially her matrimonial status. One would then speak of a wife in simple legal marriage, in leviritic marriage, and in widow-concubinage, as the wife of the true husband, the man in whose name bride-cattle had been paid. But a woman who is partner in ghost-marriage would be referred to as the wife of the vicarious husband who stands in the place of the true and ghostly husband. Consequently only members of a man's kin and village may know that the woman with whom he is living is not legally his own wife but the wife of a dead kinsman. Other people may be ignorant of the real state of affairs or, if cognizant of them, may not know the name of the ghost-husband. As a courtesy-title one may also speak of an unmarried concubine who has lived with a man for several years as his " wife ".[1]

Before leaving the subject of nomenclature a few words must be said about terms of address between persons who stand to one another in two different sets of relationship, the legal and the biological. It is my experience and it is the statement of my informants that when a man and woman and their children live together, whether the union be ghost-marriage, leviritic marriage, widow-concubinage, or concubinage with an unmarried woman, they use the same terms of address to one another as members of a simple legal family use. There is no reason why in widow-concubinage and concubinage with an unmarried woman the terms for " father " " mother ", " son " and " daughter ", should not be used in the same manner as they are used in the simple legal family. It might be supposed, however, that in ghost-marriage and leviritic marriage the members of the domestic groups that spring from them use terms that indicate their legal, rather than natural, status to one another. As I have said, this is not the case. The terms describing the legal relationship between a man and the son he has begotten (other than in simple legal marriage) are only used in legal and ritual situations and when one of the two parties desires to influence the behaviour of the other by recalling the legal relationship between them and the obligations it entails. A man

[1] The term, ' *cek* ', has a wider range of meaning than ' wife '. It may be used to describe any woman who has once been married or who has borne children.

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may use the same terms of address to the kinsmen of his genitor as are used by a son to the kinsmen of his pater.

X

Often there is opposition between the interests of the legal family and the interests of these other forms of bio-domestic groups, i.e. between the interests of the group united by marriage and descent and the interests of the procreative group united by sentiment and common residence and life. A child is a member of both groups and it often happens that the privileges he derives from membership of the one clash with his feelings towards the people of the other. The extent to which this opposition affects the lives of the persons concerned depends on conditions which vary in each case. It is impossible in advance to know how any particular person will be affected. One can only guess how he will act when one knows the characters and status of the people involved. But the normative principles that govern the behaviour of parents and children may be explained and, in any particular case, their actions will tend to follow the lines here laid down.

For the reason explained earlier only the position of sons is considered. Daughters will not stay either with their genitor or with the kinsmen of their pater, but become members of their husband's household. Control over their persons is therefore not disputed and division of their bride-cattle is so well defined by law that it is of minor importance in which locality they are brought up.

The simpe legal family in which husband and wife are both the legal and the physiological parents of the children, and have brought them up, has great cohesion, and permanent lines of descent join the father and his sons. The relations between members of such a family are described elsewhere and here it is only necessary to point out that it has an advantage over the other domestic groups under discussion in that the formal status of its members towards one another is generally in harmony with their sentiments, e.g. the feelings of respect and affection of a son to a father are directed towards a man who actually is his father in the full legal sense. Also even when there is friction between sons and their father there is no opposing group to which the sons can attach themselves without losing to some extent the privilege of their birthright. This emergeed clearly from a statement made to me by Nhial who was openly on bad terms with his father: "If he (my father) had been my genitor only (and not my pater) I would long ago have left him and started a kraal of my own." A youth is very firmly bound to his family from motives of self-interest no less than by habit and sentiment of home. If he leaves his family he will not go to live at the home of another man he calls "father" but at the home of his mother's brother.

When a man marries a wife to the name of his father or brother or paternal uncle the relations between the members of the group that ensues are the same as relations between members of a simple legal family during the childhood and boyhood of the sons, as far as can be judged from behaviour and expression of sentiment, and it is only in legal alignment

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XII

I have given a description of different types of union found in Nuerland and of the groups that arise from them. I have illustrated each type mainly by quoting examples from the village of Nyueny. I could have drawn on villages in other parts of Nuerland.

Some remarks of a general nature were made in the early part of this paper. Further remarks are given in conclusion but I wish to make it clear that I mention briefly only a few sociological results that arise from such "matrimonial" conditions as those I have described and that I merely sketch some of the problems that lie in the material we have considered.

One important result of widow-concubinage is matrilocal residence, temporary or permanent. I have discussed modes of residence elsewhere and here it is only necessary to show how they are affected by the prevalence of the various types of union which have been reviewed. In simple legal marriage the first child is born and weaned in its maternal grandparents' home and may be brought up there. But it eventually comes to live with its parents in the village of its pater and his kinsmen, for after weaning her first child a wife joins her husband in his village and there her other children are born. That is the normal procedure. In ghost-marriage it is the same. In leviritic marriage the children and their mother generally remain in the home of the dead pater. In widow-concubinage, however, as we have seen, the children are often born and live, at any rate for some years, away from the home of their paternal kinsmen. The children of unmarried concubines live, when they are small, with their mother, whether she remains in their father's home or takes a lover elsewhere. After a boy has been initiated he normally makes his pater's homestead his permanent home. These statements apply particularly to boys. There is less consistency in the case of girls, as already explained.

A glance at Diagram No. X shows how matrilocal and patrilocal modes of residence are found side by side as a consequence of widows cohabiting with lovers in the village of their brothers. "The daughters of Jany" live side by side with the "sons of Jany". Nyaruithni ♀ and Nyawal ♀ are widows living at Nyueny with their children, while Nyaudol ♀ is about to join them. Not on account of widowhood, but for other reasons, Nyadang ♀ also lives here with her husband and family, so that four of the daughters of Jany are living with their children in the hamlet of their kinsfolk.

With reference to this matrilocal cluster Bilieu ♂—Lam ♂ said to me: "I live with Meat ♂ who is my maternal uncle, for he brought me up and I was initiated at his home. We share the same byre. He has one half of the byre and I have the other half. In the cattle-camp also we share the same wind-screen and tether our cattle side by side. My position is just like that of Galuak ♂—Rainen ♂. He shares with Panyuan ♂ and I share with Meat ♂".

Since they live in the village of their maternal kinsfolk these youths with the exception of the sons of Rainen ♂ whose father is resident in the

11:Evans-Pritchard E-5 (1931, 1936) 1945
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589 591 611 551 village are given matronymics instead of patronymics. Thus at Nyueny one generally speaks of Bilieu ♂—Nyawal ♀ and Malith ♂—Nyaruithni ♀ instead of Bilieu ♂—Lam ♂ and Malith ♂—Rwacar ♂, though at the villages of their paters one would speak of them by their true patronymics. One even hears the sons of Rainen ♂, Nhial ♂ and Galuak ♂, referred to after their mothers' name as *gaat Nyadang* ♀, "sons of Nyadang ♀", because they live in the village of their maternal kinsmen. The same nomenclature is to be observed when a son of an unmarried concubine lives with his mother's people, e.g. Cuol ♂—Mer ♀ who was referred to overleaf.

562 Another point of importance which is very obvious from the facts related in this paper is that marital and domestic conditions among the Nuer indicate the high position of women in their society. The matter cannot be discussed at length here and I will only remark that the facts cited show how freely women move among the Nuer. We have seen that widows settle with lovers without hindrance, that many girls rear a family without consenting to marriage, and woman always take their small children with them when they change households, and that sometimes they even marry wives themselves.

611 The social principle of agnatic descent is, by a kind of paradox, traced through the mother, for the rule is that in virtue of payment of bride-wealth all who are born of the mother are children of her husband. Thus all the children of a woman may be children of a man whom their mother has never even seen. Or a woman may bear children by many men yet they all have one pater. Or, yet again, a woman may bear a child by a man to whom she is not married and to whom she never will be married, but this man is her child's pater by payment of a fee.

602 We see herein the fundamental principle that gives structural uniformity to, and thereby explains, the heterogeneous social elements isolated and described in this paper. I refer to the agnatic principle that is one of the most fundamental principles of Nuer social organization. It runs through the whole gamut of social relations, from ecological relations at one end of the scale to cosmological relations at the other end. This principle is not merely that every man must have a pater, and that he traces his descent through his pater, inherits from his pater, and succeeds to his pater's status. These are contained in the principle and are an expression of it, but, in our opinion, the agnatic principle among the Nuer is essentially the tendency of attachment to agnatic groups or lineages. By such attachment a man becomes a social being for his social personality is acquired from his attachment to these groups, from which he derives also, through mutual assistance, the means of existence and security.

At first sight many of the facts stated in this paper seem to be in direct opposition to this principle. Thus if we take the Jany (Kwenwar) cluster at Nueny it is evidently an aggregate of cognates and affines. The same social conditions can probably be found in every Nuer village. The underlying agnatic principle is therefore in glaring contrast to social actualities. But the actualities are always changing and passing while the principle endures.

12:Evans-Pritchard E-5 (1930-1931) 1933
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554 brothers whom the *let* had eaten. His father said to him, " Never mind,
614 take your two sisters and let them be your brothers." So in future when
619 Nyaang went fishing he went with his sisters Nyabil and Fadwai. Nyaang
173 is the founder of the GAALIEK lineage, Nyabil of the JEMAC lineage,
773 Fadwei of the JAAJOAH lineage. Whenever we find large sections living as *rul* in a tribe we may expect to discover that bonds have been created between them and the *diel* by myths of the kind cited above. This mythological patent gives them a status in the tribe which is nearly equal to that of the *diel* and amounts to adoption into their kinship framework.
[611] This is often accomplished in Nuer society through the kinship value of the mother's line, for although lineages are, for purposes of descent, reckoned widest through the male line and comprise only agnates in respect to the inheritance of certain clan heirlooms, nevertheless descent through the female line has powerful recognition and there is a tendency for the kinship group to take the form of an association of cognates, of men and their sons and daughters and the children of sons and daughters. When strangers come to live in the village of *diel* and marry into their families there is always a drive towards matrilocal conditions, and descent through the mother is stressed so that the lineage of the strangers' sons is traced to the mother and through her linked to the clan of *diel*. We have already cited a good example of this process in the case of the JEMAC and JAAJOAH clans who trace their descent to the name of their ancestresses while the names of their husbands have been forgotten. Nevertheless, in spite of this, they form separate exogamous groups since they cannot be members of the clan of their ancestresses. They are *gaat nyal*, children of daughters, in contrast to *gaat twot*, children of " bulls " or children of sons. However, in some respects the original daughter who gave birth to the stranger's lineage is treated as though she had been a son, as the myth about Nyaang explicitly states, so that the lineage which springs from her still grows on her own genealogical tree. In this way there is always a tendency to translate bonds of contiguity into bonds of kinship.

584 Not all strangers form such important lineages as the THIANG, JEMAC,
614 JAAJOAH (Lou tribe), GAAT TIEK, GAAT REANG (Gaajak tribe). Many
619 *rul* are members of small lineages of strangers living in the midst of other
621 small foreign lineages all of which are aggregated around a nucleus of *gaat twot*. Thus in Lou country, among the Lou aristocratic element, the

15: Butt E-4 (No date) 1952 FJ22 Nuer FJ22

families; it is only in question of descent and inheritance that the difference is seen. It is the dead pater's name which will survive in genealogies. 588 [610]

Ghost marriages are arranged on behalf of brother, paternal uncles, maternal uncles and fathers (i.e. physiological fathers who are not also paters). A man of a senior generation is not allowed to marry a wife to the name of a kinsman of a junior generation because the man would be both vicarious husband to the woman and her father-in-law. A man never marries a woman to the name of his father's father or his mother's father since that was the duty of their sons. Only a kinsman takes a wife to the name of a dead man. Occasionally a woman marries someone to the name of a dead kinsman, and the wife so married would cohabit with a stranger to raise up children for the ghost.(1)

2. *The Levirate.* When a husband dies, the children his wife may subsequently bear are still counted as the children of the dead man. It is held that the woman should live with one of the dead man's brothers for she was married with the cattle of their kraal. Whoever inherits the widow does not marry her; she is still the wife of the dead man, and the man with whom she lives merely acts as genitor. Children born of the union regard themselves as their pater's family and inherit from him and not from their genitor. Leviratic marriage is different from ghost marriage. In ghost marriage bridewealth is paid and the marriage rites are performed by the vicarious husband; in leviratic marriage the husband has already performed these actions and the brother or other male kinsman inheriting the widow merely enters, as pro-husband, a family already in being.(2) 587 611

Tradition, threat of divorce and social pressure, all persuade a young widow to live with her husband's brother or with a son by a co-wife. She has a certain amount of choice among the relatives available. If she prefers to go and live with lovers and to 'give birth in the bush', all children born are counted as those of her dead husband, and his lineage has legal rights over them. Some widows return to their parents' village and live with a man there.

3. *Widow Concubinage.* A widow living with a stranger after the death of her husband, is called a *cek* as *lak* (widow concubine).(3) Her lover has no legal rights over her and cannot compel her to stay with him, nor has he any legal control over children born of the union. A man, a widow concubine and their children form a natural, as opposed to a legal, family, and the position of the genitor, though precarious, is acknowledged socially in several ways. 587

4. *Unmarried Concubinage.* A child of an unmarried woman has no pater but his genitor may become his pater on payment of a fee of 4 to 6 cattle to legitimise him. If the fee is not paid, the child belongs to the mother's lineage, and any man whom the mother cares to live with for the time being is regarded as his foster father. In certain respects the status 848 [611] 850

(1) Evans-Pritchard, "Some aspects of marriage and the family among the Nuer", 1928, p.318.
(2) Evans-Pritchard, *op.cit.*, 1938, p.330.
(3) *Ibid.*, p.325.

16; Evans-Pritchard E-5 (1931, 1936) 1956
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but rather as names numbered, as it were, in the archives of the lineage. They think of the dead continuing in this way in the living. It is to ensure the survival of the dead in their names, Nuer say, that they have the customs of the levirate, widow-concubinage, and ghost-marriage.

I have discussed these practices at length elsewhere,[1] and here it is only necessary to show their connexion with the matter under discussion. Nuer practise the true levirate. Widows are neither remarried nor inherited but continue till death to be married to their dead husbands to whose names they continue to bear children begotten by their dead husbands' brothers, with whom they have in certain circumstances an obligation to live. If, however, for one or other reason, a widow does not choose to live with one of her dead husband's brothers she may cohabit with any man she pleases, but all children such a widow-concubine may bear to her lovers count as children of her dead husband. The custom of ghost-marriage further ensures that every man must have a son who will be called after him '*gat* so-and-so', 'son of so-and-so'. If a man dies without a male heir and without leaving a widow to bear him male heirs it is a paramount duty for his near kin to marry a wife to his name before they take wives in their own names. In theory at any rate, therefore, every man has at least one son and through this son his name is forever a link in a line of descent. This is the only form of immortality Nuer are interested in. They are not interested in the survival of the individual as a ghost, but in the survival of the social personality in the name.

The memory of a dead man is thus kept alive by its being constantly on people's lips through the favoured patronymic usage during the lifetime of his children and afterwards in the recitation of a line of descent. This is why at a mortuary ceremony Nuer stress that a man who has died is not entirely finished. 'His children will carry on his name.' A dead man's name is also on people's lips in reference to bridewealth cattle. If a man has a right to cattle in the division of a girl's bridewealth he does not lose that right at death. Indeed, if he is dead he not only retains the right but his claims are given precedence, as being 'the right of a ghost', over those of the living. These cattle are *ghok jookni*,

[1] 'Some Aspects of Marriage and the Family among the Nuer', *Zeitschrift für vergleichende Rechtswissenschaft*, 1938 (reprinted in *Rhodes-Livingstone Papers*, No. XI, 1945); also *Kinship and Marriage among the Nuer*, 1951, chaps. iii and iv.